

REMARKS

In response to the election of species requirement set forth in the Office Action mailed November 28, 2003, Applicants respectfully request that the species requirement be restated and, in any event, traverse the requirement.

As written in the Office Action, the species are set forth in separate groups indicated to be alternative. It is not believed this was intended but it is not clear what was intended. For example, it was initially assumed that the Examiner was requiring a species designation in which all of the moieties indicated as Y, X², R⁸, R⁵ (assuming R⁵Y was intended to designate R⁵), X¹ and R⁶ were selected from the alternatives set forth in the Office Action but this would be inconsistent with the species designated as 7 in that applicants were not asked to select between the presence of one or two phospholipids. Clarification of the species requirement is respectfully solicited.

The requirement for an election of species is respectfully traversed. The Office Action states that the species listed do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding technical features because they do not share a structural feature in common with respect to one another. Applicants respectfully disagree.

Claim 21 call for an oral vaccine comprising a nucleic acid operatively encoding an antigen complexed with or entrapped within liposomes formed from lipid forming a components comprising at least one cationic compound and one or two zwitterionic phospholipids. All of the zwitterionic phospholipids in claim 21 share a significant structural element, namely the moiety



linked to an alkanediyl-containing moiety. To the extent that the cationic compounds are set further forth in claim 22, all of these cationic compounds contain a significant structural element in common, namely the moiety



linked to a moiety made of groups to which the species requirement has been applied.

Since all of the alternatives possess a common significant structural element and all of the combinations have the same utility, it is respectfully submitted that unity is present. Withdrawal of the species requirement is therefore respectfully solicited.

In an attempt to be complete, applicants advise the Examiner as follows. With respect to species requirement 1, applicants select the species where Y is O, and for species requirement 2, applicants select the species where X² is N or P when m is 3; if a requirement is made to select within this group, applicants select nitrogen. With respect to the species requirement 3, of the species of R⁸ listed in claim 21 applicants select C₁₋₈ alkyl. In response to species group 4, applicants select R⁵ being a bond, and with regard to the species group designated 5, applicants select the species where X¹ is N or P when n is 3, and if required to select further, applicants would select nitrogen. As to species group 6, of the species of R⁶ listed in claim 22, applicant select C₁₋₈ alkyl. Finally, with regard to species group 7, applicants select the first listed species in claim 32, namely distearoylphosphatidylcholine.

Applicants believe that all of the instant claims read on the elected species, however defined, other than claims 33 and 48.

The early further consideration and allowance of this application is respectfully solicited.

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Respectfully submitted,

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